Office-Supreme Court, U.S.
FILED
MAR 25 1966
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

October Term, 1965

No. 1017

LOUIS IRWIN,

Petitioner,

against

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITIONER'S REPLY BRIEF

JOSEPH M. COHEN
LOUIS W. BOOKHEIM, JR.
Attorneys for Petitioner
36 West 44th Street
New York, New York 10036

IN THE

Supreme Court of the United States

October Term, 1965

No. 1017

LOUIS IRWIN,

Petitioner,

against

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITIONER'S REPLY BRIEF

On the element of intent, the Brief for the United States in Opposition limits itself to "whether a specific intent to influence an official act is an essential element of the statute (18 U.S.C. 201(f)) . . ." (Br. p. 1).

The question is much broader: "Is *criminal* intent an element of the felony defined in 18 U.S.C. §201(f)?" (Petition, p. 3)

We believe that criminal intent *is* a necessary element in the crime, and that the trial judge did not adequately so charge. *United States* v. *Byrd,* 352 F. 2d 570 (2d Cir. 1965)

The absence of criminal intent on petitioner's part is indicated by:

1. His acquittal on the count charging him with intent to influence (304a).

2. The fact that the tax returns being audited were true, accurate and supported by checks, vouchers, etc. (186a; 200a; 206a; 214a) Their accuracy was not even questioned by the prosecution (217a).

The validity of 18 U.S.C. §201(f) is one of the issues in another pending petition for certiorari: No. 1001, Eugene Kenner v. United States. The Court may wish to consider the two petitions as companion cases.

Respectfully submitted,

JOSEPH M. COHEN
LOUIS W. BOOKHEIM, JR.
Attorneys for Petitioner